ESCHELON EXHIBIT 3
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF MINNESOTA

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayer	Commissioner
Phyllis Reha	Commissioner

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist items 1, 2, 4, 5, 6, 11, 13 and 14	PUC Docket No. P-421/CI-01-1371 OAH Docket No. 12-2500-14486-2

ESCHELON'S RESPONSES TO DOC'S INFORMATION REQUESTS

Date of Response: March 4, 2002

Eschelon Telecom, Inc. ("Eschelon"), submits the following objections and responses to the Minnesota Department of Commerce's Information Requests 1007-1008, 2032-2035, 4001, 5001, 6001, 11001, 13001, and 14001:

GENERAL OBJECTIONS TO ALL INFORMATION REQUESTS

1. Eschelon objects to the Requests to the extent they are vague, over-broad and/or unduly burdensome.

2. Eschelon objects to the Requests to the extent they seek information subject to the attorney-client privilege, work product doctrine, or any other privilege recognized by the State of Minnesota and information that is trade secret, confidential, sensitive, competitive in nature or proprietary.

3. Eschelon objects to the Requests to the extent that they seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

4. Eschelon objects to the Requests to the extent that they seek a legal conclusion.

5. Eschelon objects to the Requests on the grounds that Eschelon is not a party to Minnesota Docket Number P421/CI-01-1371.

RESPONSES

Subject to, and without waiving, the foregoing objections, Eschelon provides the following Responses.

1007. Please provide copies of all responses to any information requests served by other parties in the following dockets regarding Qwest's 271 application:

P421/CI/01-1370	Non-OSS Checklist Items
P421/CI-01-1371	OSS Checklist Items
P421/CI-01-1373	Public Interest Issues
P421/CI-01-1375	Cost Issues

No responses to date. (Eschelon's objection to a Qwest request is attached.)

1008. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 1 obligation to provide Interconnection (including collocation) at any technically feasible point, at desired volumes *and at an acceptable level of quality* that is at least equal in quality to that provided to itself and that provides rates, terms and conditions that are just, reasonable and nondiscriminatory. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of interconnection and collocation:

COLLOCATION

Collocation Dust Contamination/Dangers to Equipment: Qwest's current procedures addressing when Qwest and/or its vendors ("Qwest") perform construction activities in buildings that house CLEC collocations are inadequate and in need of revision. *See* attached documentation. They are also unfavorable when compared with how Qwest performs similar activities for itself. Qwest has exposed Eschelon's collocation equipment in Minnesota to serious adverse conditions while Qwest conducts construction activities in the building housing the collocation. Qwest caused dirt, dust, and metal shavings to go onto Eschelon's collocation equipment in the Orchard Central Office in Minneapolis in January and February of 2002. (*See* enclosed photos: "dust".) Qwest also allowed excessive temperature levels in the collocation area that could damage Eschelon's equipment. Qwest removed all essential cooling to the area and replaced it with a fan, an inadequate solution. Qwest would not find that a fan would be adequate to cool its own equipment. The problem also required one of Eschelon's technicians to be available for the time period while a vendor was completing the clean up. This tied up a technician who should have been doing other work. This incident caused down time for our customers and forced Eschelon to incur unnecessary time and expense to Eschelon and could have caused major damage to our equipment. Eschelon escalated the issue within Qwest. In response to the escalation, Qwest provided Eschelon with a written response that said: "Throughout the life of this construction project, Qwest has insured that all methods of procedures (MOP's) were followed and that dust protection was appropriate and in place." The enclosed photographs show the significant amount of dust in the collocation using what Qwest described as "appropriate" dust protection. Obviously, if following the current procedures at Qwest produces this result, the current procedures are inadequate. Eschelon further escalated the issue within Qwest, and Qwest (Pamela Stegora-Axberg) assured Eschelon that this would not happen again.

The problem re-occurred, however, shortly after the other incident, in the same collocation. (*See* enclosed photos: "new dust".) Despite assurances to the contrary, dust was still entering the collocation area. Proper steps had not been taken to prevent a re-occurrence. Although Qwest has agreed to after-the-fact clean ups, a later clean up, is not a satisfactory remedy. The breaches to security and integrity to the collocation cannot be undone. Eschelon also had to incur unnecessary time and expenses, in addition to its customers experiencing unjustified downtime.

The problems in the Orchard Central Office in Minnesota came after earlier commitments from Qwest that Qwest would prevent this type of situation from happening again. In March of 2001, an earlier instance of collocation contamination occurred in the Denver Main Central Office. The conditions discovered at the site indicated a deliberate breach in security and potential damage to our equipment. Qwest had not notified Eschelon of its construction or the potential impact on Eschelon's collocation space. Eschelon's cage was accessed without Eschelon authorization or knowledge. A Qwest approved contractor removed the pins securing Eschelon's collocation cage to gain access and Qwest security failed to notify Eschelon of the intrusion. Eschelon pays security charges on a monthly basis and expects Qwest to provide and maintain a secure environment. Eschelon told Qwest that his matter is of utmost importance as the integrity of Eschelon's collocation equipment was jeopardized. Qwest would not expose its own equipment to such conditions or allow Cliches to treat Qwest's space and equipment in this same manner. One can only imagine how Qwest would react if a CLEC removed the pins to a Qwest door to get around a lock securing access to the Qwest area of a building. Even after the Denver situation was resolved, and assurances were received that the problem would not occur again, the serious problems described above have occurred again, twice, in the Orchard Central Office in Minneapolis.

APOTs: Qwest has provided inaccurate Alternate Point of Termination (APOT) information to Eschelon. Providing inaccurate APOT information to a CLEC prevents the CLEC from providing service to its customers until the problems are resolved. Eschelon asked Qwest to implement a process to provide accurate APOT information (CR #PC120301-3; attached). Qwest has indicated that it has taken steps to try to provide accurate APOT information. Eschelon will not be able to test the process until it needs more APOTs.

Qwest provides preliminary, but not final, APOT information 15 days before the Ready for Service (RFS) date. Qwest does not provide a CLEC with ***final*** APOTs until on or after the collocation RFS date. On that date, CLEC is required to pay all remaining nonrecurring charges and begin paying recurring charges for the collocation space. Yet, the collocation space is not functional because the associated UNEs, transport services and CLEC-to-CLEC routing cannot be ordered with any certainty until after the final APOT information is made available to CLEC. While Qwest will allow CLECS to place orders based upon preliminary APOT information provided before the RFS date, this does not guarantee that CLEC can use its space on the RFS date. If Qwest determines that the final APOT is different from the preliminary APOT, CLEC is required to submit a supplement to its service order, thereby delaying delivery of UNEs, transport and CLEC-to-CLEC routing. Eschelon has asked Qwest to develop a process to provide CLECs with final APOT information at least 15 days before RFS so that CLECs can place orders in a time frame that enables them to actually use their collocation space on the RFS date (CR PC120301-2; attached.) Correcting APOT issues takes time and coordination, which, if handled in the early stages of the order, can be resolved without affecting the established RFS date generated by Qwest and expected by Eschelon/Eschelon customers. Qwest declined the request.

<u>Collocation Cage Planning Fees</u>. The collocation cage planning fees in the Qwest/AT&T compliance filing are higher than the rates in other states where Eschelon operates in Qwest territory. Eschelon has asked the Commission to re-examine how Qwest applies the collocation cage planning fee to determine whether it is applied as intended and whether, as applied, the rate is cost-based. *See* Reply Comments of Eschelon Telecom, Inc., Regarding Rates Requiring Investigation, pp. 3-4, MN PUC Docket No. P-421/CI-01-1375 (Nov. 8, 2001) (with exhibits) (attached - 2034). For physical collocation, the non-recurring rate in Minnesota is $3,406.46. In particular, the Commission should re-examine. Qwest charges this fee when a CLEC makes an initial request for caged collocation space in Qwest premises. In almost all circumstances, Qwest also charges this fee if a CLEC makes a major material change (as Qwest defines that term) to its initial collocation request. For instance, if a CLEC requests a decrease in DC power (which, contrary to Qwest's definition, is not a major change), Qwest will charge CLEC a $3,406.46 fee to process the order. Qwest also charges the full fee to augment a completed collocation. If a CLEC orders a DS-3 circuit as an augment to its caged collocation space, Qwest charges the entire $3,406.46 fee. Augments to existing collocations and changes to initial collocation orders do not involve the same level of planning and engineering that the initial development of the collocation site requires. Qwest should not be permitted to charge the steep fee of $3,406.46 for augments and changes to collocations, as the work involved is a fraction of the work involved in developing the initial collocation site.

<u>Additional Collocation Issues</u>: Eschelon has attempted to resolve the following issues with Qwest for a period of months, but the issues remain unresolved:

1. Forecasted Collocation Interval. The FCC has found that ILECs should be able to provide collocation within 90 days of application. (ORDER ON RECONSIDERATION AND SECOND FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 98-147 AND FIFTH FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 96-98, dated August 10, 2000.) Qwest proposes, through its SGAT, to increase this interval by double or more than double the time if "major infrastructure modifications" are required. These increased intervals are unjustified since Qwest has lead time to provide needed infrastructure through the forecast process. These increased intervals serve to delay CLECs from providing service to their customers.

2. Unforecasted Collocation Interval. Qwest agrees to provide forecasted collocations within 90 days (unless "major infrastructure modifications" are required) but will not provide unforecasted collocations within that same time period even if facilities are available for the collocation. Qwest has obtained an interim waiver from the FCC to increase its interval from 90 to up to 150 days for unforecasted collocation applications. However, the waiver is interim and the Order states that Qwest should use its best efforts to minimize any increased time

period. (MEMORANDUM OPINION AND ORDER in CC Docket No. 98-147, dated November 7, 2000.) Qwest, however, insists on a 120 day interval for unforecasted applications even when there is no facilities issue that would warrant additional time. By using this arbitrary criterion to determine interval length, Qwest delays a CLEC's ability to provide service to customers.

3. Adjacent Off-Site Collocation. Qwest will not provide Eschelon with adjacent off-site collocation so that Eschelon can collocate on property next to Qwest and thereby not be required to use an entrance facility to gain access to Qwest's premises. The SWBT Local Access Service Tariff provides for an offering of adjacent off-site collocation. The FCC Collocation Order states that any collocation offering made by one ILEC should be offered by another ILEC upon request, unless the ILEC can show that the offering is not technically feasible. (47 C.F.R. 51.321(c)). Despite this requirement by the FCC, Qwest refuses to provide Eschelon with adjacent off-site collocation.

4. ICDF Collocation. Eschelon asked Qwest to agree to allow it to interconnect at the ICDF when Eschelon uses ICDF collocation. Qwest has refused this request. The Act defines collocation as "the duty to provide... for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier...." 47 USC 251(c)(6). ICDF collocation is a form of collocation and so Qwest is required to permit interconnection at the ICDF. Without this ability, Eschelon cannot interconnect LIS trunks at the ICDF.

5. Collocation Change Orders. Qwest delays collocations to competitors through its practice of including a long additional interval if Eschelon submits a change to its collocation order. Qwest proposes that the additional time required for a change submitted by a CLEC be determined solely at Qwest's discretion. Eschelon requested that Qwest agree to reasonable objective factors to determine the time frame when a change is requested. Qwest would only agree to a list it devised that included minor as well as major changes with long additional intervals. For instance, under the Qwest proposal, increasing the number of bays in a cageless physical collocation arrangement would take more than 60 days. This is a minor change that should take a very short time to complete.

6. Space Reservation Deposit Policy. Qwest will permit CLECs to reserve collocation space for up to one year if CLEC pays 50% of the nonrecurring charge up front. If CLEC cancels the collocation reservation after 90 days, Qwest will not return any of the nonrecurring charge. Qwest would provide no cost justification for this policy. This pricing policy provides Qwest with a windfall in contravention of the Act's requirements to provide CLECs with rates, terms and conditions that are just, reasonable and nondiscriminatory.

INTERCONNECTION

Eschelon has attempted to resolve the following issue with Qwest for a period of months, but the issue remains unresolved:

1. Single Point of Interconnection. The Act and implementing regulations require Qwest to permit CLECs to have a single point of interconnection in each LATA. (SWBT Texas 271 Order at para. 78.) Qwest's response to this mandate is to offer an "SPOP product." The SPOP, however, requires CLECs to connect at every access tandem in a LATA unless it signs a "waiver" of this "requirement" and agrees to additional restrictions imposed by Qwest. Qwest's requirements unnecessarily increase the costs of providing service to customers and are discriminatory.

OTHER

See 4001(Unavailability of UNEs Behind RSUs).

Paul Hanser (Eschelon's Director of Switch Engineering) deals with Qwest on interconnection and collocation.

2032. Please identify instances since November 1, 2001 in which you believe that Qwest was responsible for one of following problems (answer separately for parts “a” through “l” below) in Minnesota.

> For each listed problem identified, please provide as much detail as is relevant to the problem and is available including: (1) Your order number(s), (2) any related Qwest order number(s), (3) the date any related order was originally provided to Qwest and the data of any order supplement(s) or change(s)/the date(s) on which trouble or call blockage problems were reported to Qwest, (4) the date(s) on which Qwest was due to complete the order, (5) the date on which Qwest actually completed the order/the date Qwest finally cleared the trouble(s) or call blockage problem, (6) the service being provided by Qwest (i.e., resale, UNE-P, UNE Loop, etc.), (7) the related end user name and telephone number(s), (8) the end user contract name and number, (9) any notes concerning your interaction with Qwest to resolve the problem, (10) the name and number of a contact with your company that can provide additional information about the order or situation.
>
> Please provide your response both on paper and in an electronic format if possible. If the specific data requested herein is not available, please provide the best available proxy for the requested information even if you cannot respond to all portions of the request.
>
> a) Failure to provide service needed for one of your end user accounts on the scheduled installation date.
> b) Significant delay in providing service for one of your end user accounts.
> c) Failure to provide network facilities on the scheduled installation date.
> d) Substantial delay in providing service for one of your network faculties.
> e) Service trouble within 30 days of installation of one of your end user accounts.
> f) Service trouble within 30 days of installation of one of your network facilities.
> g) Multiple/repeat trouble for the same end user.
> h) Multiple/repeat trouble on the same network facility.
> i) Excessive call blockage for one of your end user accounts.
> j) Excessive blockage on one of your network facilities.
> k) Any missed Hotcut appointments.
> l) Inaccurate or missing bill data for your end user accounts.

Subject to, and without waiving, the foregoing objections, Eschelon states:

For subparts (a) through (f) and (k), *see* the attached Confidential information.

For subparts (g) through (h), the Qwest repeat reports within 30 days in Minnesota is:

November 2001	7.1%
December 2001	4.3%
January 2002	10.5%

With respect to subparts (i) and (j), Eschelon has engineered diversity into its network to attempt to avoid blockage. The service outages that Eschelon has experienced since November 2001 have not been in Minnesota. The last service outage in Minnesota resulting in excessive call blockage (approx. 40% - 60%) was in October 2001 (October 2-8, 2001).

With respect to subpart (l), *see* below.

2032 (l). Inaccurate or missing bill data for your end user accounts.

Subject to, and without waiving, the foregoing objections, Eschelon provides this Response:

Outstanding Minnesota Billing Disputes (Through January 31, 2002)

See attached summary of Minnesota billing disputes with Qwest. They include:

Taxes, USF, and 911 Charges: Eschelon is a telecommunications carrier providing telecommunications services to end-user customers in Minnesota. Eschelon bills its end users such charges. Therefore, on a wholesale basis, Eschelon is exempt from these charges.

Termination Penalties on Resale Bills: In its ORDER REJECTING TARIFF/PRICE LIST REVISIONS, Oct. 2, 2001, Docket. No. P-421/AM-00-1165, at page 13, the Minnesota PUC said that "proposed TLAs do not meet statutory standards of fairness and reasonableness and that they unreasonably restrain the resale of Qwest's wholesale services." In addition, Qwest waived and released all charges for terminating Eschelon's contracts for services purchased from Qwest for resale. *See* Interconnection Agreement Amendment Terms, ¶¶ 2.1 & 3.1 (Nov. 15, 2000) (attached to Response to No. 2034). Therefore, Qwest should not be assessing these charges.

Non-Recurring Charges (NRCs): NRC disputes include:

--Loop installation NRCs: Eschelon provided a pre-payment to Qwest for bulk loop installation NRCs through December 31, 2001. *See* ICA Amendment (July 3, 2001) (attached). The amendment did not limit the loop installations to certain USOCs, but Arturo Ibarra of Qwest informed Eschelon that Qwest is nonetheless only applying loop installations with the USOCs of 1CRUF and 1CRUG to the pre-payment. Qwest is billing Eschelon for other loop installations even though they should have been included in the pre-payment.

--Maintenance NRCs: For on-net lines, Qwest has started to bill Eschelon rates that are not in the ICA but appear to be from Qwest's FCC access tariff. Eschelon is ordering local services using a Local Service Request (LSR) and not access services on an Access Service Request (ASR). The charges are excessive and, as discussed in Response to Request No. 4001, Qwest is applying them in situations when they are not applicable.

Discount Not Received on Private Lines: Eschelon's ICA with Qwest provides for a wholesale discount for products ordered out of Qwest's retail tariff. Eschelon orders private lines from Qwest out of Qwest's Minnesota private line transport tariff, but Qwest does not apply the wholesale discount. Eschelon orders these private lines for local service (not access service). Eschelon is forced to order these lines on an ASR because Qwest does not offer an LSR for Eschelon to use for these orders. Eschelon has offered to certify that these lines are being used for local service, but Qwest did not ask Eschelon to do so. The wholesale discount should apply.

Incorrect Rate (Overbilling): Qwest entered into ICA amendments with Eschelon that provide for rates, including DS-1 and DS-3 rates, that are lower than the rates previously approved in the cost docket. The Minnesota PUC approved the amendments. The amendments do not provide that Qwest may substitute a higher rate. *See* Response to Request No. 2034; *see also* Reply Comments of Eschelon Telecom, Inc., Regarding Rates Requiring Investigation, pp. 2-3 (with attachments), dated November 8, 2001 (attached - 2034).

Usage Termination to Wireless: Qwest is billing Eschelon for usage terminating to a wireless customer, even though Qwest and Eschelon have entered into a Bill and Keep for Reciprocal Compensation Amendment. *See* ICA Amendment (July 31, 2001) (attached - 13001). If Qwest is also charging the wireless carrier, Qwest may be double recovering. Qwest places these charges on a separate, summary manual invoice (paper bill), and bill validation is difficult. It appears that Qwest may be claiming this is transit traffic, but then the charges would appear on the transit bills. The charges are billed separately one month. The next month, there is a debit or adjustment for a lump sum, with no explanation of the charges, on the transit bill. This is confusing and difficult to track/verify.

Overbilled Prorated Charges: Eschelon disputes Qwest's backbilling relating to the wholesale discount.

Miscellaneous USOCs Not Resale and Toll: Eschelon is also disputing other, miscellaneous charges.

Bills for Maintenance Charges

As discussed above, Qwest is applying inappropriate maintenance NRCs. This is just one of many issues relating to maintenance and repair. *See also* 4001.

Bills contain inadequate and inconsistent information, preventing meaningful bill verification and reconciliation. For on-net bills, Qwest provides the service order number, but Eschelon needs the circuit identification number to validate the bills. Eschelon provides Qwest with the circuit identification number for design services (including loops) when Eschelon opens a repair ticket, but Qwest does not include that number on the bill. Therefore, the bills cannot be reconciled. The bill format also inhibits bill verification. For example, in some cases, Qwest provides the telephone number and in others the Purchase Order Number. These different numbers appear in the same column. Also, in Billmate, the date field should have 8 digits, but Qwest often does not populate a zero before a single-digit figure in the date. These problems increase the difficulty of bill verification.

In addition, Qwest does not provide advance notification of the rate increments/elements and associated charges Qwest plans to bill Eschelon until the monthly bill is rendered. This is inconsistent with Qwest's process with its retail customers. They receive a receipt of work performed, and hours and service that will be billed. Eschelon has asked to receive this documentation the day the service is performed so Eschelon can be prepared to validate the charges when the invoice is eventually rendered that contains the charges. On December 6, 2001, Allegiance, Covad, and Eschelon, in their joint Escalation (*see* 4001), asked Qwest to "Ensure that CLECs receive notification, at the time of the activity, if a charge will be applied, because CLECs should not have to wait until the bill arrives to discover that Qwest charged for an activity." (Joint Suppl. Escalation, p. 9; *see* 4001.) As Eschelon has said at Change Management Process (CMP) meetings, the CLEC needs to know at the time of the event that a charge will apply. This is true for maintenance and repair charges more generally (and not only those for "additional testing"). Immediately after the work is completed, Qwest needs to send CLEC a statement of services performed, testing results, and applicable charges (by telephone number) that will appear on CLEC's next invoice. If Qwest is claiming that a charge was authorized, a process should also be in place to provide timely documentation as to who authorized the charge. Because CLECs must wait until the bill is received, it is a huge task to go back and analyze what happened in each situation and whether a charge should have been applied. In many cases, there simply is no way to verify charges.

In response to the CMP Escalation by Eschelon, Covad, and Allegiance relating to "additional testing" charges (*see* 4001), Qwest said that "a unique line item will be available on each bill for the CLEC." (Qwest Resp. p. 4; *see* 4001.) Qwest indicated that it is making this change "in direct response to the Eschelon concern for line item identification." (Qwest Resp. p. 4.) Eschelon does need line item identification and sufficient information to identify the basis for each charge. Qwest is not making line item identification available immediately. In its Response, Qwest stated that it will be providing a paper bill in the interim until a systems modification can be made. Qwest has an obligation to provide an electronic bill (an obligation which has existed since 1996). Nonetheless, Qwest has planned this change without coordinating timing of a systems change. Paper bills place CLECs at a significant disadvantage. Bill validation is virtually impossible using paper bills. Eschelon's paper bills, for example, are hundreds and sometimes more than a thousand pages long. On December 21, 2001, Eschelon responded that, at a minimum, if Qwest intends to use paper bills for these charges, Qwest must use a separate Billing Account Number ("BAN") for these charges, so that Eschelon can try to find these charges in all of that paper. Qwest has not yet done so.

There are many outstanding maintenance and repair issues. *See* Response to Request No. 4001.

Bills for Loops by Zone

The Minnesota PUC established specific loop rates by zone. Eschelon should be able to find those rates in its bills for loops. Instead, Qwest uses a confusing approach in which Qwest charges for "increments." For example, if a loop is in Zone 2, Qwest bills two rates for that loop: (1) the Zone 1 loop rate, and (2) a charge that is the equivalent of the difference between the Zone 1 rate and the Zone 2 rate. This practice is confusing and makes bill verification unnecessarily difficult. Qwest invoices for unbundled loops also do not contain a central office identifier (CLLI) code that would allow Eschelon to validate that a telephone number is being billed the appropriate zone charge.

UNE-Eschelon Bills

One hundred percent of UNE-Eschelon ("UNE-E") rates billed to Eschelon from Qwest for UNE-E lines are inaccurate. *See* Response to Request No. 2034.

Other, Potential Errors

Due to the efforts necessary to analyze the above issues and the time-consuming and difficult nature of bill verification, Eschelon has not yet determined whether other billing errors may exist. For example, Eschelon has not yet had an opportunity to review its collocation bills for accuracy.

Advance Notice of Rate and Profile Changes

Qwest has failed to provide advanced notice of rate and profile changes. The customer should be told the basis for the change and be given an opportunity in advance to dispute the change, if the customer can show a basis in the contract or otherwise for doing so. At a minimum, the customer should be able to identify when and how rates and terms are changed. On August 31, 2000, Eschelon submitted a Change Request (CR # 5043204) to Qwest's CMP.[1] The description of the requested change provides:

> Eschelon seldom receives notification of billing changes (rates/terms/etc.). Qwest simply makes the changes with no explanation of why the changes were made. Proper notification should include the rate change or rate structure change with references to specific tariff sections, interconnection sections, or contract sections of applicable documents.

As indicated in an Eschelon email to its then account manager at Qwest on September 6, 2000, at that time, Eschelon had already been pressing the issue of advance notification of rate changes for eight months – ***since at least January of 2000***. ("During the past 8 months, Eschelon has informally approached Qwest on these issues with either yourself, billing reps or our former account rep. . . ."). On March 26, 2001, Eschelon submitted another Change Request (CR # PC032801-4) to Qwest regarding this issue. In this CR, Eschelon asked Qwest to "implement a process to provide advance notice to CLECs before changes are made to the CLEC's profile and rates in Qwest's systems. The notice

[1] Qwest's Change Management Process is described on Qwest's wholesale web page at http://www.qwest.com/wholesale/cmp/index.html. In Change Requests (CRs), Parties describe issues and ask for process or system changes to address the problems. On its web site, Qwest lists the CRs with their status histories in "Interactive Reports." *See*, *e.g.*, for product changes: http://www.qwest.com/wholesale/downloads/2002/cmp/CLEC_Change_Request-ProductProcess_Interactive_Reports.PDF?rn=40224. The "Detail CR Information Listings" provide the CR language and status histories.

should be sufficiently detailed to allow the CLEC to understand the implications of the change and should be provided sufficiently in advance of any change to allow the CLEC to object, if necessary. A process should be put in place to handle objections to changes before the changes are made." The inability to identify, analyze, plan for, dispute, and respond to rate and profile change is a legitimate, important business need. Eschelon needs to be able to identify potential changes and, if they are valid, plan for them in its budgeting and provisioning processes. Despite Eschelon's formal requests and much discussion of the topic, Qwest implemented processes that it refers to as "bill validations" that result in rate changes without advance notice of which rates changed or any of the other requested detail. Attempting to identify and verify the changes after the fact in the voluminous bills received from Qwest is virtually impossible. After Eschelon escalated this issue with Qwest, Qwest committed to providing more information in advance of rate changes. Since then, Qwest has issued additional announcements relating to rate changes and "bill validations" that have not included sufficient detail to identify and verify the changes.

Eschelon escalated the issue on November 8, 2001, and other CLECs joined the escalation. *See* Eschelon's Escalation of CR # PC032801-4 (later joined by Allegiance, Covad, Integra, and WorldCom) (*see* attached escalation materials). Although Qwest has said that it will provide additional information for rate changes after its initial "bill validation," Eschelon is still not receiving adequate information. In addition, Eschelon believes that Qwest's documentation is unclear and does not provide written assurances and notice that rates will not be changed after a party objects but before the objection is resolved. Even when Qwest has just recently started to send notices with more information, those notices are inadequate. The notices are directed at CLECs generally and, because they contain a lot of irrelevant information that is irrelevant to Eschelon, they tend to create more, rather than less, confusion. The notices are not sent using the proper notice procedures under Eschelon's interconnection agreements. Also, the rates in the notices do not seem to correspond to Eschelon's bill, so bill validation is still a problem. Eschelon has provided to Qwest a proposed format for providing adequate information to Eschelon about potential rate changes, but Qwest did not incorporate most of Eschelon's recommendations.

William D. Markert (Eschelon's Vice President of Network Financial Management) deals with Qwest on these billing issues. Lynne Powers (Eschelon's Executive Vice President of Customer Operations) deals with Qwest regarding Change Management Process (CMP) issues, including Eschelon's escalation of the Advance Notice of Rate and Profile Change CR.

2033. Does your response to DOC Information Request No. 2032 provide a complete list of known errors of each type or a partial/selected list of known errors attributable to Qwest? If the list is partial/selected, please describe specifically how you selected the examples provided.

Subject to, and without waiving, the foregoing objections, Eschelon states that Eschelon has attempted to provide known errors attributable to Qwest rather than just a few examples of those errors, except for subpart (l).

With respect to subpart (l), Eschelon is unable to track or identify every instance of Qwest bill inaccuracy or missing data. The bill information is voluminous and very difficult to verify.

2034. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 2 obligation to provide access to unbundled network elements at any technically feasible point that is at least equal in quality to that provided to itself and that provides rates, terms and conditions that are just, reasonable and nondiscriminatory. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of unbundled network elements (UNEs), including combinations of UNEs:

Flow Through

Flow through issues relate to all products, but for convenience will be discussed together in this Response. *See also* 4001 (loops) and 14001 (resale). The advantages of flow through are well known, just as the disadvantages of manual processes are well documented. Qwest continues its practice of manually checking all wholesale orders, which means that none of them truly flow through. After a CLEC has completed a Local Service Request (LSR), Qwest completes a service order. All service orders receive at least a manual review (some manual input) by Qwest and some are actually fully manually typed by Qwest. In contrast, once a Qwest retail representative completes an order, it flows through without manual intervention or a second re-typing. It is well recognized that a second, manual entry increases the likelihood of errors and is an inferior process. Eschelon is an IMA-GUI user at this time. Eschelon plans to move to IMA-EDI in the future.

Qwest identifies some of its products as flow through "eligible." *See* attached Qwest list of "LSRs Eligible for Flow Through." This means that the products may flow through with the manual piece being Qwest's review of the order. Qwest has defined other products as not even "eligible" for flow through. These products require manual creation of a service order by Qwest representatives, even though the CLEC has already created an LSR and provided it to Qwest.

Centrex 21 is a product that Qwest has elected to consider as ineligible for flow through. Centrex products are important to Eschelon's business, and Qwest has indicated that Eschelon is Qwest's second largest CLEC wholesale customer. Nonetheless, this important product is handled manually. Although Eschelon has already created a service order and provided it to Qwest, Qwest's order writers manually re-type the order. The service order must be re-created, increasing the chance of error. Although Eschelon believes that Qwest should have been offering flow through on this product for years now to avoid discriminating against CLECs, Qwest has not done so. Eschelon has had to submit a systems Change Request (CR) to the Qwest Change Management Process (CMP) to request flow through for Centrex 21 orders and at least consider Centrex 21 as flow through eligible (CR SCR120301-1, attached).[2] Eschelon still does not know when flow through of Centrex 21 orders may be available.

For products that Qwest currently identifies as "eligible" for flow through, Eschelon believes that Qwest has had an obligation for years to provide them with true flow through to avoid discriminating against CLECs. Instead, Qwest provides only flow through "eligibility." Eschelon has had to submit a CR to request "true" flow through for any products that Qwest describes as flow through "eligible." (CR SCR100201-1, attached.) Of these products, loops and UNE-P are particularly important to Eschelon (in addition to Centrex 21, which still has to make the "eligible" list). Eschelon has provided questions to Qwest regarding the extent of flow through available with these products, which Qwest has committed to answering. Until true flow through is provided, Qwest retail has an advantage over wholesale customers.

Regarding flow through of UNE-E orders, *see* below.

Regarding flow through of xDSL-I orders, *see* 4001.

Platform Product (UNE-E)

Eschelon orders a Platform product (a combination of UNEs) from Qwest pursuant to the Interconnection Agreement Amendment Terms between Qwest and Eschelon (dated November 15, 2000), which was approved by the Minnesota Public Utilities Commission ("PUC" or the "Commission"). The Platform product has been referred to as UNE-Eschelon ("UNE-E"). Qwest has referred to its product for McLeod as "UNE-M" and its Platform product offering as "UNE-STAR."

UNE-E Billing. One hundred percent of the UNE-E rates billed to Eschelon from Qwest for UNE-E lines are inaccurate. Qwest continues to send Eschelon a resale bill, and Qwest and Eschelon must then determine the appropriate adjustment to the bill to account for the UNE-E product. When Qwest and Eschelon first entered into the Interconnection Agreement Amendment Terms, Qwest said that Eschelon would continue to receive a resale bill until Qwest implemented a mechanized process for UNE-E billing. Qwest estimated that the mechanized process would be in place in the first quarter of 2001. Yet, Eschelon continues to receive resale bills for UNE-E orders today.

William D. Markert (Eschelon's Vice President of Network Financial Management) deals with Qwest (primarily Arturo Ibarra) regarding UNE-E billing issues.

UNE-E Provisioning. Qwest provisions the UNE-E product with an approximately 50% - 70% error rate, using a manual process. From August through October of 2001, Eschelon reviewed service order completion notices to identify order errors and identified an error rate of approximately 50%. Qwest rejected orders in error or removed features without Eschelon's knowledge, and Qwest's translations personnel were unfamiliar with the proper process for translating the UNE-E product in the switch. Many of the errors resulted in adverse end-user customer impact (including repair issues, because the customers did not always experience the impact of the error until some time after the order activity). Eschelon objected to the adverse customer impact and the

[2] Although Qwest offers CMP as a forum to request changes to its processes and systems, CMP is not a substitute for compliance with the law and nondiscriminatory treatment.

amount of resources that Eschelon had to expend on dealing with these errors. Eschelon was forced to escalate virtually every problem to receive a subsequent service order issued to correct the problem. In November of 2001, Qwest took over the resource-intensive manual review of the UNE-E service orders. Qwest told Eschelon that, in November, Qwest's error rate for UNE-E service orders was approximately 70%. Qwest has not reported an error rate to Eschelon since then. Although the error rate is high, Qwest's internal review has substantially reduced the number of errors that adverse impact the end-user customers. Some customer-affecting problems still occur, however. For example, on December 11, 2001, a customer called Eschelon and indicated that the call waiting feature was not working (Access Care Ticket 44575). This issue took a month to resolve. Finally, Eschelon was forced to submit an order to remove other features to allow the call waiting feature to work (C94149886; due date 1/10/02). As long as Qwest continues the manual review of the UNE-E service orders, such adverse customer impacts should not occur as frequently. If Qwest discontinues its manual review, however, the problems will re-surface.

Eschelon was experiencing even more provisioning problems when first using UNE-E. UNE-E is essentially Centrex functionality on a POTS product. Initially, Qwest told Eschelon to order the needed features on a 1FB. Significant problems arose when a customer was moving to UNE-E from a Qwest 1FB, often because the features did not interact properly. Qwest told Eschelon that these problems would be addressed by ordering the 1FBs with Custom Calling Management System (CCMS). On July 31, 2001, Qwest and Eschelon entered into two amendments to the interconnection agreement (relating separately to recurring and non-recurring charges) to modify the product to allow ordering of 1FBs with CCMS. (Both are attached.) These amendments were supposed to alleviate the provisioning problems without requiring a change in platform, for which Qwest charges higher rates. The majority of Eschelon's UNE-E lines require use of 1FB with CCMS. After signing the amendment, Qwest operational personnel (Toni Dubuque and Kathy Rein) informed Eschelon that CCMS is an old product that the product manager actually wanted to retire and that few people at Qwest are knowledgeable about it. This is consistent with the problems that Eschelon has experienced. Both the service order and the translations personnel at Qwest appear untrained to provide the UNE-E product. Provisioning the product is requiring additional resources and manual effort by both Qwest and Eschelon. Qwest has indicated that UNE-E orders will never flow through.

Lynne Powers (Eschelon's Executive Vice President of Customer Operations) deals with Qwest (primarily Toni Dubuque) regarding UNE-E provisioning.

UNE-E Documentation. Other than some job aids, Qwest has provided little documentation to describe and support the UNE-E product. UNE-E, or UNE-STAR, is not identified in Qwest's Product Catalog on Qwest's wholesale website. (*See*, *e.g.*, http://www.qwest.com/wholesale/pcat/unep.html.) Although UNE-E has some characteristics in common with UNE-P, UNE-E is different from UNE-P. For example, whereas usage is billed on a per line basis for UNE-P, UNE-E includes flat-rated usage up to a specified local minutes of use per month per line. *See* Att. 3.2, p. 9, Interconnection Agreement Amendment Terms (Nov. 15, 2000) (attached). Because Qwest does not clarify the distinctions between the two products in its materials, Qwest's

UNE-P announcements cause confusion. Eschelon must ask whether the UNE-P announcements (such as systems changes) apply to UNE-E/UNE-STAR and, if so, how they apply.

Qwest's product catalog for UNE-P does not address intraoffice transport versus interoffice transport. Qwest's analysis of usage billing for UNE-P reflects that a portion of traffic will not be billed shared transport charges if the call originated and terminated in the same Qwest end office (intraoffice transport). In the case of intraoffice transport, Qwest has reflected that shared transport would not apply to those intraoffice minutes. However, Eschelon has not been able to find this type of language in Qwest's product catalog. Qwest's product catalog should address traffic that originates and terminates in the same central office. Because there is no transport and the traffic does not go to the local tandem, the documentation should make clear that there is no shared transport charge.

UNE-P

Due to billing, provisioning, and pricing issues with UNE-E, Eschelon plans to begin ordering Qwest's UNE-P product. [To date, Eschelon has approximately 166 UNE-P lines in Minnesota (approximately 200 region-wide). This is an insignificant percentage of Eschelon's total lines. *See* attached Confidential document.]. These lines were ordered initially some time ago. Eschelon has made numerous attempts to obtain information relating to UNE-P rate elements, pricing, and features from Qwest but has yet to receive complete information. Although Eschelon may read and interpret its interconnection agreements for itself, experience shows that interpretations may vary and disagreements may arise. Therefore, Eschelon has tried to obtain answers to its questions in advance to avoid disputes later and to allow Eschelon to analyze costs and prepare to provision the product. For example, Eschelon read on Qwest's wholesale website for UNE-P-Centrex/Centron that "Until Qwest systems are able to record and bill actual usage information, Shared Transport originating MOU and Local Switching originating MOU will be billed at a flat monthly rate based on assumed MOU." *See* http://www.qwest.com/wholesale/pcat/unepcentrex.html. Eschelon asked Qwest to provide the amount of the "flat monthly rate," but Qwest has not responded.

Regarding features and functionality of UNE-P, Eschelon has raised with Qwest questions about UNE-P for some time. For example, Qwest has taken the position that Remote Access Forwarding (RAF) is an AIN feature. Qwest does not offer AIN features with UNE-P. In many cases, however, RAF is switch based (Qwest could turn on the software load in the switch), and RAF does not need to be on an AIN platform. Eschelon believes that RAF should be made available with the standard UNE-P product offering. Attached is a list of questions that Eschelon has prepared for Qwest regarding UNE-P. Eschelon has been asking the majority of these questions for some time in one form or another. Although some responsive information is addressed in Qwest's Product Catalog on its website, the Product Catalog does not provide the level of detail that Eschelon needs to develop, launch, and provision the product.

Also, the information received from Qwest is sometimes conflicting. For example, Qwest informed Eschelon that the type of message waiting needed by Eschelon was unavailable with UNE-P. Eschelon pointed out that message waiting should be available with UNE-P, because it is a switch-based feature. Qwest has since indicated that message waiting (MWW, as well as M1W) is available with UNE-P-POTS and that Qwest will modify its product catalog accordingly. Even with this correction, a problem that appears to be a Qwest up-front edit is preventing these orders from going through.

Planning and launching a product is very difficult, time-consuming, and resource intensive when the product information is constantly changing and difficult to verify. Eschelon has been attempting to obtain sufficient, reliable information to provide service using UNE-P since at least May of 2000. *See*, *e.g*., Verification of Garth Morrisette, Arizona Docket No. T-00000A-97-0238 (Sept. 20, 2000) and Eschelon's Comments Addressing UNE Combinations (Sept. 21, 2000) (*see* chronology beginning on page 16) (both attached). The problems and unknowns with UNE-P at that time were too numerous, and Eschelon has instead placed most of its lines on UNE-E. Now, due to provisioning, billing, and pricing issues with UNE-E, Eschelon is again analyzing moving lines to UNE-P. Qwest appears to have made progress with UNE-P. For example, whereas in May of 2000 Qwest did not even provide documentation relating to feature availability, Qwest now addresses the issue on its website. As indicated above, Eschelon still has questions about UNE-P product and provisioning, but Eschelon hopes that information will be easier to obtain now. In the meantime, however, Eschelon has expended excessive resources UNE-E and UNE-P product and provisioning issues that Eschelon could have otherwise spent on building its business and servicing its customers.

Enhanced Extended Link (EEL)

An Enhanced Extended Link (EEL) consists of a combination of an unbundled loop, multiplexing/concentration equipment, and dedicated transport. Eschelon's existing interconnection agreement (ICA) with Qwest allows Eschelon to order each of these elements and to order them in combination. Therefore, Eschelon has maintained consistently that no amendment of the ICA is required to order EELs. Eschelon believed that Qwest had agreed that Eschelon could order EELs pursuant to its existing ICA. In September of 2001, Eschelon confirmed this in writing and asked Qwest to "Please be sure that, if anything specific to EELs is required to be added to our profile/tables, that it is done now so that we do not run into any problems if we decide to order them." (*See* attached emails.) Eschelon also provided a spreadsheet to Qwest with all of Eschelon's existing resold private lines that it asked Qwest to convert to EELs. Nonetheless, today, Qwest has still not converted a single one of those lines to EELs or completed the work on Eschelon's profiles and tables to allow Eschelon to order new EELs.

Obtaining product and rate information relating to EELs has been exceedingly difficult. When Eschelon asserted its right to order EELs under its ICA, Qwest (Judy Rixe) said that she believed that Qwest's rates under its proposed amendment were lower, at least in some cases. Despite repeated requests, however, Qwest did not provide those rates to Eschelon at the time or verify whether Qwest agreed as to the applicable rates under the current ICA. Eschelon maintained the position that Qwest should provide EELs under the existing ICA at least until an amendment could be negotiated, if in fact an amendment contained favorable terms.

Eschelon finally had to sign an interim EEL contract amendment because the delays and obstacles were too great in trying to enforce its existing contract rights. The

EEL amendment is interim pending resolution of other issues, such as the UDIT rate (*see* next paragraph). Although Eschelon has capitulated to Qwest's requirement to sign an amendment, Qwest should have been providing EELs to Eschelon under Eschelon's ICA in the meantime. Even with an amendment in place, Eschelon cannot yet order EELs. Qwest requires at least a four week delay, after signing an amendment, before Qwest loads the information into its systems and allows ordering to take place. Eschelon asked Qwest to load the information earlier, but Qwest would not do so.

<u>Unbundled Dedicated Transport Rate</u>

Qwest made separate Unbundled Dedicated Interoffice Transport (UDIT) rates available to CLECs that agreed to accept Qwest's UDIT amendment. Eschelon signed the UDIT amendment in Minnesota. Under the UDIT amendment, for example, a DS-1 UDIT for 0 to 8 miles is priced at $42.11, as compared to $100.65 under the Qwest/AT&T compliance filing. Similarly, the EEL DS-1 Link Rate of $161.80 is 55% higher than the $104.09 DS-1 Capable Loop Rate Qwest agreed to in Qwest's DS-1 Capable Loop amendment with Eschelon. The rates in these amendments were dictated by Qwest, and it is highly unlikely that Qwest would self-impose rates that are below cost. *See* Reply Comments of Eschelon Telecom, Inc., Regarding Rates Requiring Investigation, MN PUC Docket No. P-421/CI-01-1375, pp. 2-3 (Nov. 8, 2001) (with exhibits) (attached). In fact, Qwest provided a cost study to Eschelon in support of the amendment rates. The amendment rates, therefore, should be viewed as a ceiling on these rates. Although Qwest dictated the UDIT rate, supported it with its own cost study, and signed a contract amendment with Eschelon to charge that rate for UDITs, Qwest is billing Eschelon for the substantially higher rates from the Minnesota cost case compliance run. Eschelon's amendment with Qwest, however, provides that the amendment's UDIT rate applies and does not state that Qwest may charge another rate. In addition, Qwest is refusing to enter into an EEL amendment in Minnesota that includes the lower amendment UDIT rate. Qwest is now indicating that the UDIT rate may not apply to EELs because Qwest has a rate that it is calling EEL transport. Qwest cannot avoid its contract amendment obligations by changing the name of the facility. Regardless of the name, it is the same facility.

<u>Rates</u>

Qwest's rates are too high and are not cost-based. Eschelon has asked the Minnesota PUC to review the rates as soon as possible. *See* MN PUC Docket No. P-421/CI-01-1375; OAH Docket No.12-2500-14490-2 and MN Docket No. P-442, 421, 3012/M-01-1916.

<u>Other</u>

See also Eschelon's Responses to Information Request Numbers 2032 (service quality), 4001 (NIDs, loops, adherence to processes), and 11001 (number portability).

2035. Does your company have an agreement with Qwest that addresses in any way your company's potential participation at the state or federal level in the consideration of Qwest's application for authority under 47 U.S.C. §271 to provide interLATA services in Minnesota? If so, please produce a copy of the agreement. If the agreement is not written, please describe the agreement, including all of its terms, in detail.

Subject to, and without waiving, the foregoing objections, Eschelon provides this Response.

On information and belief, Qwest previously provided to the DOC a written agreement that was, at that time, responsive to this Request. That agreement has been terminated. *See* attached document.

4001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 4 obligation to provide local loop transmission from the central office to the customer's premises (including NID and line sharing) at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of local loop transmission from the central office to the customer's premises (including NID and line sharing):

NID/Demarcation

On January 7, 2002, a Qwest technician made inappropriate comments to an Eschelon end-user customer in a situation relating to moving the demarcation terminal. *See* attached letter from end-user customer. Eschelon asked that the demarcation be moved 1.5 feet onto an adjoining wall. Eschelon believed that this a job that should take about an hour or two. The customer called Qwest to indicate that a technician from Qwest had said that this was a big project that required work such as building a trench. The customer reported to Eschelon that, when he asked Qwest why this has to be such a big project, the Qwest technician said: ". . . because you don't subscribe to Qwest, I have to treat you differently" and "this is how I am instructed to do it." (When Eschelon finally convinced Qwest to do the work, Qwest said, consistent with Eschelon's initial position, that it also believed the work would take about two hours.)

Eschelon reported the incident and asked for an immediate investigation and corrective action. Almost a month later, on February 4, 2002, Qwest provided Eschelon with a cryptic memorandum in which Qwest indicated that "there was no inappropriate conduct or violation of Qwest policy." Eschelon's customer shared a very different view of events with Eschelon. Because Qwest provides so little information and comment when these incidents are reported, Eschelon has no assurance that such conduct will not re-occur. Eschelon does not know how many such comments occur, because not all customers will pass them on to the CLEC.

NID/Failure to Tag at Demarcation

Qwest often fails to label and tag the lines at the Demarcation (for loops and, in particular, also for the Plain Old Telephone Service (POTS) line associated with Qwest Resale DSL). When Eschelon requests a loop from Qwest, Eschelon asks Qwest to label (mark) and tag the lines at the Demarcation. Qwest does this for itself. When Qwest fails to do so for Eschelon, Eschelon dispatches a technician, but the technician is unable to find the cross connect because Qwest did not tag it. Qwest's failure to tag causes two dispatches to occur, instead of one, because the technician must be dispatched again later, after Qwest identifies the location of the cross connect. Therefore, Qwest imposes unnecessary time, expense, and delay on CLECs.

The enclosed Confidential document shows examples of situations in which Qwest failed to tag (in italics). The other information (in bold) includes examples of xDLS-I loops for which Qwest did not complete wiring in the Central Office. This creates as many, or more, problems than failing to tag at the Demarcation.

<u>LOOPS</u>

<u>xDSL-I errors</u>

Qwest returns Firm Order Confirmations (FOCs) with incorrect information (*e.g.*, incorrect circuit identification numbers) for Eschelon's xDSL-I orders. Also, if the error is not detected, Eschelon does not get what it ordered, and the loop does not work as intended. Eschelon must escalate to ensure that the product is designed correctly. Qwest than may miss the due date. This situation causes unnecessary delay and resource expenditures, including time-consuming escalations.

While at first this appeared to be a training issue within Qwest, Qwest communicated to Eschelon that the error is a flow through problem. It appears that Qwest's tables in IMA are incorrect, which causes a mis-match of the NC/NCI code to the circuit identification type. Qwest designs the loop as a UBCU circuit identification type. It is a type of circuit that relates to an ISDN circuit, which is channelized. Eschelon has ordered an unchannelized product, however. Therefore, Qwest delivers the wrong product, and it does not work as intended. Eschelon submits an order for the xDSL-I loop and includes the correct NC/NCI code. When Qwest returns the FOC, the FOC contains the wrong circuit identification information. Although Eschelon has entered a service order, Qwest order writers manually check the order. When they do so, they are not catching the error. Eschelon then has to review every FOC and compare it to the order and, when problems arise, escalate them at Qwest. This is a manually intensive process.

Regionwide, approximately 19% of this type of order is returned with incorrect information in the FOC. In Minnesota, it is approximately 12.5%. *See* attached Confidential documentation. The amount of time required to resolve each error is significant. In addition, even for orders without error, additional work is required because Eschelon has to check each FOC and order to ensure that they match in an attempt to catch the error avoid missing the due date and/or receiving the wrong product.

<u>Cutovers</u>

Regarding hotcut appointments, *see* 2032 and 11001.

Qwest's documented procedures require Qwest to perform a dial tone check 48 hours before the cutover due date to ensure there is dial tone before the life and lay. Qwest also performs this check for itself. Qwest needs to do so to confirm the accuracy of its records. The records may be different from the actual physical configuration. For example, a Qwest repair technician may have moved a customer to new facilities during a repair but failed to update the records to reflect the move. Later, when a loop is designed consistent with the records, the move to new facilities is not taken into account. The 48-hour dialtone check allows verification that the loop has been designed in the proper manner/at the proper location. When Qwest fails to perform the 48-hour dial tone check, the due date may be pushed out because time is needed to re-design the loop, once an error is detected. More importantly, the failure may cause a customer to lose dial tone and go out of service. Because of the seriousness of the consequences, the process needs to be applied consistently. Eschelon discusses cutovers with Qwest approximately once every two weeks. Eschelon generally raises one or more examples of this situation on most calls. Enclosed are thirteen examples that occurred in December and January (with two of them in Minnesota).

When a cutover goes bad, it is a serious problem. Customers are adversely impacted, and significant resources are expended in correcting the problem. Enclosed is an example for which Eschelon expended approximately 18.5 hours of two of its employees' time and several hours for three other Eschelon employees. The customer's service was disrupted for at least 24 hours.

<u>Maintenance and Repair</u>

There are numerous maintenance and repair problems. These issues overlap among loops, resale, and billing, but will be addressed in this Response. *See also* 2032 & 14001.

<u>"Additional Testing":</u> On October 1, 2001, Qwest submitted a Change Request (CR) to the Change Management Process (CMP)[3] in which Qwest announced a process for "additional testing" of UNEs before submitting a trouble report to Qwest. (CR PC100101-5; *see* attached documentation.) Qwest announced a process to reject CLEC orders submitted without test diagnostics or perform the testing and bill the CLEC charges for doing so. Qwest said that it would begin this new process in November of 2001. Qwest instituted the process to reject trouble tickets in November, as planned, despite strong objections from CLECs. Qwest delayed billing until December 1, 2001, but that was also insufficient time to resolve the issues raised by CLECs. Eschelon and other CLECs objected to implementation of a new process, with unknown charges, with so little information and notice. Eschelon pointed out that it found no basis in its Minnesota interconnection agreement for this process or these charges, and when asked, Qwest could not point to any provisions in the Minnesota contract either. Despite no basis for doing so, Qwest implemented the process. Therefore, although this issue is far from resolved, Eschelon is currently receiving charges pursuant to this process which, as discussed below, are not valid under the interconnection agreement and are virtually impossible to verify.

Although Eschelon voluntarily conducts testing before submitting a trouble report and voluntarily provides test diagnostics, Eschelon objected to Qwest's attempting to make these obligations mandatory without a basis in the interconnection agreement for doing so. Eschelon is concerned about the precedent that Qwest is attempting to set

[3] *See* footnote 1 to 2032 regarding the Qwest CMP.

which, in effect, imposes a unilateral amendment on Eschelon's interconnection agreement over Eschelon's objection. In addition, although Qwest now claims that the testing and charges are "optional," Eschelon believes that Qwest is applying the charges in erroneous situations, including situations in which Eschelon has itself provided test diagnostics but Qwest nonetheless does testing on its own or for some reasons charges Eschelon anyway. Also, it appears that Qwest will charge for testing, if a CLEC requests it (regardless of whether the CLEC's interconnection agreement requires CLEC testing – which Eschelon's Minnesota agreement does not), even if the testing shows that the fault is in Qwest's facilities. It also appears that this testing charge may be in addition to other maintenance charges for the same activities, which could lead to double recovery of costs (*see* enclosed Escalation and Reply).

Qwest has failed to provide any basis for the rate it charges. (The rates appear to be from Qwest's FCC access tariff. Eschelon is ordering local services using a Local Service Request (LSR) and not access services on an Access Service Request (ASR). *See* 2032(l).)

Eschelon, Covad Communications, and Allegiance Telecom jointly escalated the additional testing issues. (*See* enclosed documentation.) The issues remain unresolved.

Unanswered Questions/Inadequately Documented Processes: Although the joint Eschelon, Covad, and Allegiance Escalation began in response to Qwest's additional testing process, that process exposed other problems and questions. As the parties attempted to analyze Qwest's processes and bills, it became clear that there are additional unanswered questions and problems with Qwest's billing of maintenance and repair charges generally. Many of these issues are discussed in the joint escalation and the joint escalation reply. (*See* enclosed documentation.) To the extent that Qwest has responded to the escalation, Qwest has focused narrowly on the additional testing process (as it is allegedly supposed to work, and not as Eschelon has experienced it) and has avoided the difficult process and rate issues that go beyond additional testing. CLECs have raised questions about the process and rates for maintenance and repair (loops and resale) not only in the joint escalation but also in other contexts. Eschelon has raised its questions at the general CMP monthly meetings. At a CLEC Forum hosted by Qwest on January 14-15, 2002, Eschelon and other CLECs raised numerous process and rate questions. Since then, Eschelon has continued to press Qwest for answers to its questions. At the CLEC Forum and at the meetings since then, Qwest has promised but not delivered answers to questions, including:

Provide clear definition of codes used by Qwest, including No Trouble Found (NTF), Test OK, and Come Clear While Testing.

Identify which codes are associated with charges (and the amount of those charges).

Identify the relationship of the codes and charges to design services (including loops) and resale.)

Assist CLECs in understanding the bills that they receive (Billmate). Identify if there are differences in the type of bills received per region/product.

Determine if the rates charged for trouble isolation vary by state and identify the charges

Determine the increments by which Qwest bills (1/2 hour or ¼ hour) as well as when overtime charges are applicable.

Determine if Qwest has an established interval in which it will credit CLEC for a previously billed dispatch that was reported as NTF. (For example, CLEC has a ticket that is coded NTF and closed. Another ticket is opened for the same reported case of trouble and that ticket results in Qwest repairing the facility.)

> Assist CLEC in understanding how the 2nd ticket should be reported/related to the 1st ticket to ensure credit will be given (E0135 form).

Outline the Billing Dispute Resolution Process for Repair.

CLECs are severely disadvantaged without answers and clear documented processes addressing these issues. And, although Qwest has not provided this information, CLECs are nonetheless receiving charges on their bills that they do not fully understand and cannot verify. Because of the importance of this issue, Eschelon has tried numerous ways to obtain the needed information, including the CR escalation, discussions in CMP meetings, and separate meetings with Qwest. Steve Sheahan, Toni Dubuque, and the CMP representatives of Qwest have all committed to providing answers, but they have not done so. (These questions should have been implemented before charges were assessed.) Even when answers are received from these types of inquiries, Eschelon has found that it cannot rely on them until Qwest incorporates the information into its standard documentation and trains employees accordingly. That is a long process and, in the meantime, Eschelon is receiving charges that are potentially erroneous and not verifiable.

Inaccurate Closeout Codes for Repairs. As indicated above, Eschelon is still waiting for information and documentation relating to the definitions and application of the closeout codes (such as NTF and test ok) that it requested at the CLEC Forum in January. Qwest has been unable to indicate which code applies when, as well as when a charge applies. It appears that the individuals at Qwest applying the codes are also without this information, because the application of the codes appears inaccurate and inconsistent. Nonetheless, Qwest is assessing charges for these activities. KPMG Consulting also observed a problem with Inaccurate Closeout Codes for repairs. *See* Exception 3055 – Disposition Report (attached). This is one of the problems that Eschelon is experiencing. KPMG said that the results of the retest constituted an unsatisfactory result, but Qwest requested that no additional testing be conducted. *See id*. Therefore, Qwest does not appear to be working on a resolution, even though Eschelon needs resolution of this issue.

<u>Failure to Define Activities and Charges & Potential Double Cost Recovery</u>: As indicated above, Qwest has not provided clear information as to the types of maintenance and repair charges and when they apply. When Eschelon received Qwest's "additional testing" CR that announced new charges would apply as of December 1, 2001, Eschelon began to review its bills to attempt to analyze these charges. Eschelon found charges that commenced in June that were indistinguishable on the bills from the new charges. Eschelon, in its Escalation of the Additional Testing CR, questioned these charges and whether there may be some double cost recovery by Qwest.[4] Eschelon pointed out that, because Qwest has provided no data whatsoever to support the new charges, CLECs are not in a position to determine whether any of the components of each charge overlap and constitute double or triple recovery. Qwest said that the Additional Testing charge is different from the "Maintenance of Service" charge. The latter charge "involves only labor, ***including testing*** and maintenance." (Qwest Escalation Resp. p. 3, emphasis added). This explanation certainly raises the possibility that the testing charge and the labor charge will both have some of the same components, resulting in double recovery. Similarly, Qwest refers to a "***test*** to achieve Trouble Isolation." (Qwest Resp. p. 3, emphasis added). How is trouble typically isolated, if not through testing? Yet, Qwest has at least two separate charges that it plans to apply: (1) testing; and (2) trouble isolation. Despite repeated requests from Eschelon, Qwest has not further defined the components of each charge and when each applies. At a minimum, the confusion allows for mistakes in application that result in double or triple recovery. It still appears to Eschelon that there are insufficient safeguards to prevent erroneous application of charges and double or triple recovery by Qwest. Qwest's practices prevent Eschelon from being able to verify this.

<u>NTF Followed by Trouble Found</u>: Situations occur when Eschelon's end-user customer calls Eschelon to report trouble. Eschelon reports the trouble to Qwest, but Qwest says there is No Trouble Found (NTF). Eschelon contacts its customer, who indicates that the problem still exists. Eschelon re-contacts Qwest and, this time, Qwest finds trouble. McLeod has indicated that it is also experiencing this problem. (*See* CR PC112901-2 attached.) Because Qwest did not identify the trouble in the first instance, Eschelon's mean time to repair is adversely affected. This also hurts the customer's perception of Eschelon's service quality. The customer is left with the impression that Eschelon is not timely when Qwest has reported a NTF before finding the trouble. There may also be billing problems, if Qwest if billing Eschelon for the NTF when in fact there was trouble. As discussed above, however, Qwest's practices make verification of billing difficult, if not impossible, so Eschelon cannot even determine if Qwest is overbilling. McLeod suggested possible steps that Qwest could take to address the billing issues, and ensure that charges are not applied inappropriately, but Qwest denied the request. (*See* CR PC112901-2 attached.)

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[4] Qwest is being compensated for at least some of these costs through the recurring wholesale rates (which include maintenance expense and assume a working product). Also, because Qwest is charging CLECs in the same situations in which it does not allow CLECs to charge Qwest, Qwest is benefiting from CLEC trouble isolation and testing without paying for it.

No Qwest Test Access on Pair Gain (IDLC): Qwest's policy is to require the CLEC to dispatch to prove in or out of a Qwest facility, rather than to use remote access testing on the other side of the pair gain. Therefore, Eschelon must dispatch a technician to isolate the trouble. Qwest has provided no explanation why testing is not available on the other side of the pair gain. When Qwest is in a similar situation, it appears that Qwest bills CLECs for a NTF. But, Qwest has indicated that it will not compensate CLECs in the same situations in which it requires compensation.

Reciprocity of Charges: If the CLEC has to perform testing to demonstrate that the trouble is in Qwest's facilities, this is a double expense to the CLEC. The CLEC incurs charges from Qwest for Qwest's testing and expenses of CLEC's own when doing its testing. To date, Qwest has told Eschelon that it will not pay CLECs for such testing.

When Qwest reports to a CLEC that there is No Trouble Found ("NTF"), the CLEC often dispatches its own technician to test and isolates the trouble to the Qwest network. Once Qwest admits that the trouble was, in fact, in Qwest's network, Qwest must repair it, because the trouble is in Qwest's network. Qwest should not be able to charge CLEC in this situation, because the trouble was in Qwest's network.[5] But, although the trouble was in Qwest's network all along, the CLEC incurred the costs associated with the dispatch and trouble isolation/testing. Allegiance, Covad, and Eschelon indicated in their Joint Escalation Reply that they do not currently recover these costs from Qwest. (This is the "reciprocity" issue raised in the Escalation.)

AT&T has indicated that, in interconnection agreements between TCG and USWC in AZ, IA, NE and UT, the following language is in place:

> II. NONDISCRIMIINATORY ACCESS TO NETWORK ELEMENTS
> A. Loops
> 12. Maintenance and Testing. TCG is responsible for receiving and coordinating resolution of all end user trouble reports involving Loop Service. TCG will isolate any trouble to the Loop portion of the service before contacting USWC to report the trouble. USWC will charge TCG additional labor billing charges (at USW tariffed rates) when the trouble is referred to USWC and the trouble is found to be either on the customer side of the NID or on the TCG side of the POI or collocation POT Bay. In the event that USWC reports no trouble found, and it is subsequently determined that there was a trouble on USWC's side of the POI (excluding an intermittent trouble), ***TCG will charge USWC additional labor billing charges (at TCG tariffed rates) associated with testing for the trouble***. Each party will provide to the other Party the results of any testing that is undertaken pursuant to this paragraph (emphasis added).

Although Eschelon later learned that Qwest accepts such charges from TCG, Qwest (Dennis Pappas) told Eschelon that Qwest does not accept such charges from CLECs.

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[5] Although Qwest suggested in its Response to the Joint Escalation that charges only apply when the trouble is not in Qwest's network, the discussions about the CR have suggested otherwise. Moreover, in the escalation, Eschelon provided a specific example (with ticket number) of a situation in which the trouble was in Qwest's network and yet Qwest charged Eschelon (at the SGAT rate) $84.60 for "Maintenance Dispatch – No Trouble Found." Qwest did not respond to this example.

Loren Walberg (Eschelon Senior Director, Customer Operations), Bonnie Johnson (Eschelon Senior Manager, Customer Operations) and Kathleen Stichter (Eschelon Manager, ILEC Relations) deal with Qwest on these maintenance and repair issues, in addition to William Markert (Eschelon's Vice President of Network Financial Management), who deals with Qwest on the billing aspects of these issues.

<u>Unavailability of UNEs Behind RSUs</u>

Qwest cancels CLEC orders stating: "This customer comes out of a remotely located central office and unbundled loop is not an available product." *See* Allegiance CR PC010302-1 (attached). Qwest does not allow provisioning of an unbundled loop with a collocation when an end-user customer is served by a Remote Switching Unit (RSU). The CLEC's orders are cancelled, and Qwest sends a rejection notice to the CLEC. The end-user customer, which has asked to change carriers, does not get the carrier of its choice. For example, Qwest's Eagan, Minnesota, Central Office has a RSU and, therefore, Eagan customers served by that RSU cannot switch to facilities-based carriers using loops. CLECs spend a tremendous amount of money to collocate in Qwest's central offices, so that they may serve customers in that area. Qwest does not disclose at the time that some percentage of the intended potential customers are unavailable to the CLEC for loop orders. Eschelon has asked Qwest to provide lists of Telephone Numbers behind the RSUs, but Qwest has not done so. Therefore, Eschelon has no way to identify the extent of the issue before spending substantial sums on a collocation. Although Qwest points to its raw loop data tool, use of that tool comes too late in the process, and it provides information line-by-line. This does not allow for pre-planning and budgeting.

<u>Re-Use of Facilities (Loop Reclamation)</u>

Reclaiming an existing loop that is available for re-use (because the previous carrier has disconnected it, for example) assists in avoiding held orders, because a new loop is not needed. Re-use of facilities also avoids the need for the dispatch that is needed for a new loop to cross-connect that loop and therefore is more cost effective. Also, the end-user customer experiences longer downtime with a new loop than with re-use of facilities.

Over the past year and a half, Eschelon has worked to get Qwest to change its policies and practices on re-use of facilities (loop reclamation) in an attempt to gain treatment that is at least equal to the service Qwest provides to itself. The process has involved Eschelon discovering that Qwest does some function for itself and then requesting that process for Eschelon and other CLECs. For example, in October of 2002, Qwest sent a rejection notice in response to an Eschelon's disconnect order indicating that Qwest had already disconnected the loop as a result of loop reclamation (without advance notice to Eschelon). Such a practice allowed Qwest to avoid a held order situation, whereas for CLEC orders, such orders would have been placed in held status. Eschelon submitted a Change Request asking Qwest to modify its processes to perform loop reclamation for CLECs and provide advance notice of Qwest's loop reclamations. (*See* CR 5263569, attached). Since then, Eschelon has continued to pursue various other aspect of re-use of facilities to improve processes and ensure equal treatment. (*See*, *e.g.*, CR 5263137 and CR PC091901-1, attached.) In November of 2001, Qwest rolled out a new process to reclaim the loop on Qwest all winbacks from a CLEC facilities-based customer (not only to avoid held orders). As part of the new process, Qwest is to disconnect the loop. Loop reclamation problems remain, however, because Qwest has not sufficiently documented and trained its policy within Qwest to ensure compliance. Several adverse consequences result from Qwest's non-compliance with its process: (1) Eschelon must engage in a manually intensive process to confirm in each case whether the process was followed; (2) The likelihood of lack of facilities and held order issues is greater because the loop appears to be in use when it is not; and (3) Qwest will continue to bill the CLEC for the facility, because it has not been disconnected (if the CLEC is not double-checking for compliance, as Eschelon is doing).[6] Eschelon expends resources confirming whether the loop was disconnected pursuant to the process and, if not, disconnecting the loops.

Adherence to Processes, Training, and Information

Loop reclamation is only one example of the problems that occur when Qwest ostensibly changes its processes in response to CLEC requests (including CRs), but then does not sufficiently communicate the change to the appropriate internal groups at Qwest who deal with the issues on a daily basis. CLECs train their personnel consistent with the announced process, but Qwest's own personnel are unfamiliar with the process. At recent CMP meetings, both Eschelon and Allegiance (Terry Wicks) have provided examples of situations in which they have had to fax over to Qwest personnel copies of Qwest's own policies (usually Qwest CR Responses) to prove that Qwest must comply with the process. This is inefficient, wastes resources, and causes delay.

In addition to loop reclamation, other examples of processes allegedly in place but unknown to appropriate Qwest personnel include:

- New process (developed as a result of CR PC08300-1, attached)[7] allowing a customer to move and convert LSPs while in a same Central Office. Roll Out date approx.1/22/02.
- New process (developed as a result of CR PC08300-1)[8] allowing a customer to move and convert LSPs while in a different Central Office (requires porting). Roll Out date approx.1/22/02.

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[6] Qwest's previous processes and documentation were unclear as to disconnection of the loop. In CMP meetings, Allegiance has indicated that it believed that Qwest was disconnecting the loops before. Therefore, Allegiance had not done so, and Qwest was continuing to bill for them. Allegiance and Qwest had to conduct a "cleanup" project, which is still ongoing, to correct this problem.

[7] CLECs have raised the issue of better documentation, training, and implementation of processes resulting from CMP activities in both the CMP monthly meetings and the CMP Re-Design working sessions. The CMP process has improved, but still has significant issues that need to be addressed. *See* Eschelon's Response to WorldCom's First Discovery Response, AZ Docket No. T-00000A-97-0238 (Feb. 23, 2002) (attached).

- New Process (developed as a result of Eschelon request to Qwest) allowing a CLEC to send one LSR for a customer that has multiple CSRs, same address, same customer, same location. Roll out approx. 1/15/02.
- Existing, documented Qwest process (on IMA web site in Frequently Asked Questions) on converting a customer and adding additional lines at the time of conversion. In place for quite some time.

Each of these examples has resulted in Qwest LSR rejects in error. The training of new and revised processes at Qwest in inadequate. In addition, when Eschelon escalates to the Service Delivery Coordinators (SDCs) and the Coaches in the CSIE at Qwest, they have been unaware of the processes. Qwest describes processes as "in place" when in fact they are in a testing or training phase. Because the CLECs have relied on Qwest's representation that they may use the new process, the CLECs inform their personnel of the process and start to use it. Qwest personnel's unfamiliarity with the new or revised process creates confusion and results in time-consuming escalations.

Eschelon has observed that inadequate training is a problem at Qwest that results in problems for CLECs. KPMG Consulting has identified a pattern in Qwest's Observation and Exception responses that refer to the need for additional training and training enhancements. In Observation 3086 (attached), KPMG said that the "inadequacy of Qwest's ISC and SDC personnel training may impede a CLEC's ability to obtain consistent and effective assistance, thereby negatively impacting its ability to conduct business operations." This has been Eschelon's experience.

In Exception 2064 (attached), KPMG Consulting found that the "P-CLEC's requests for product and/or process explanations from the Qwest Account Management Team are not provided a timely response. Further, any necessary clarification or correction of requested documentation is not provided, or provided with a delayed response. The P-CLEC, seeking Qwest SME support in attempting to resolve issues, has found that these experts are unable to demonstrate appropriate expertise, and they do not provide a timely resolution to outstanding issues and problems. The P-CLEC has found a significant lack of Qwest AM processes or process documentation intended to effectively support the P-CLEC. The time lags and number of outstanding issues the P-CLEC has encountered demonstrate that Qwest's internal processes and support mechanisms, which should aide Account Management activities, fail to do so. This has also been Eschelon's experience. Through CMP, Eschelon asked Qwest to essentially un-do Qwest's Spring 2001 reorganization in which Qwest replaced the previous "account team" members with "service managers" and "sales" representatives. Whereas previously Eschelon was assisted by four Qwest representatives for service issues, now Eschelon is assisted by only two "service managers" (one service manager and one senior service manager) for service issues. The "sales" personnel role brings little or no value to Eschelon. Qwest has not accommodated Eschelon's request.

[8] CLECs have raised the issue of better documentation, training, and implementation of processes resulting from CMP activities in both the CMP monthly meetings and the CMP Re-Design working sessions. The CMP process has improved, but still has significant issues that need to be addressed. *See* Eschelon's Response to WorldCom's First Discovery Response, AZ Docket No. T-00000A-97-0238 (Feb. 23, 2002) (attached).

These training, documentation, and support issues relate to all products. This Response is incorporated into the other Responses served today by reference.

Appointment Scheduler

Qwest has recently introduced an "appointment scheduler" for unbundled products. Although a time management system for scheduling Central Office resources can be useful, whether it is useful depends upon how it is used and implemented. Qwest introduced the appointment scheduler without following the proper procedures for introducing a new system. Qwest first included the scheduler in a Point Release. Point Releases generally deal with more minor, non-CLEC impacting changes. Eschelon had no reason to anticipate that such a major change in process would first be announced in a Point Release. Also, the Point Release introduction of the scheduler applied only to IMA-GUI users and not IMA-EDI users. Eschelon complained about the disparity in impact to IMA-GUI users, and Qwest moved the scheduler to the next full release. When a CLEC requests introduction of a change that requires systems resources, a CLEC must submit a Change Request which is then subject to prioritization to determine when it is added to a release. In the previous prioritization, Qwest-initiated Change Requests were included. But, Qwest did not include the appointment scheduler. If CLECs had known that additional IT resources were available to develop a new system, CLECs could have voted, in prioritization, as to whether those resources should be spent on an appointment scheduler or on other Change Requests that were ranked of high priority by CLECs. Qwest did not wait until the next release and subject the Change Request to prioritization. It simply chose to implement the appointment scheduler without prioritization and before other work requested by CLECs was completed.

Qwest has also provided unclear and conflicting information about the operation of the appointment scheduler. After first informing CLECs that appointments would be made available in ¼ hour increments, Qwest has now disclosed that, in many situations, CLECs will have to use an "override" to obtain appointments at these times. Qwest has said that it plans to track a CLEC's use of the "override" process. Because of the ¼ hour increment issue, however, the "override" process does not apply only to requests for an appointment are full. Therefore, Qwest's tracking of the override will create the false impression that CLECs are asking for unnecessary overrides when, in fact, this is a flaw built in the system.

If Qwest had brought its request to add an appointment scheduler to CLECs in the planning stages (just as CLECs must bring their requests to Qwest), CLECs would have had visibility into the process and an opportunity to help ensure that the appointment scheduler meets the needs of all parties. Problems that are now being discovered and experienced could have been avoided.

No-Build Policy

For more than a year, Eschelon pressed Qwest to provide a written policy on when Qwest will and will not build facilities, because Qwest's practices were inconsistent, undocumented, unclear, and in some cases discriminatory. In May of 2001, Qwest finally provided a written policy. Qwest announced a policy that it will not build facilities in situations in which there are no facilities and no job is currently planned to build. *See* Qwest Release Notification PDRN052201-1 (http://www.uswest.com/wholesale/cmp/releasenote.html). Pursuant to the policy, Qwest rejects CLEC orders after 30 days, if no job is planned (instead of Qwest's previous practice of placing these orders in held status). Therefore, if Qwest decides to plan a job after rejecting a CLEC order, the only carrier in line to receive that facility will be Qwest. (Before, the CLEC would at least have been in the queue to receive the facility, because the held order would have been pending.) When Eschelon submitted a CR asking Qwest to reduce the number of held orders (CR 5263637), this is not what Eschelon had in mind. Eschelon believes that Qwest also intends to impose special construction charges for rearrangements of existing facilities (*e.g.*, cable throws), claiming that this is new construction. Qwest's policy includes a footnote indicating that Qwest will apply its policy "across the board" and will make exceptions "only if ordered by a State Commission or a Court or to comply with Contract Obligations." Eschelon has asked Qwest to provide state-specific versions of its policy to clarify application of the policy, but Qwest has maintained its general footnote in the policy instead.

Qwest's no build policy raises pricing issues. *See also* Reply Comments of Eschelon Telecom, Inc., Regarding Rates Requiring Investigation, pp. 7-8 (with attachments), dated November 8, 2001 (attached – 2034). The established rates in Minnesota include capacity for future demand. For example, the fill factors include spare capacity for loops. In addition, the Commission included "dedicated idle capacity" in the loop rate.[9] The Commission said that excess capacity is included in total costs, but total costs are divided by current demand only, not excess demand.[10] Therefore, total cost is divided by a fewer number of lines, making the average cost higher than it would be if divided by the total number of lines. By setting the price of a loop equal to this higher cost, the Commission permits Qwest to "finance" new construction to serve the growth in demand. Qwest's no-build policy allows Qwest to keep this premium. When taking into account the fill factors and dedicated idle lines, Qwest recovers at least 100% of the costs of its facilities, even when using only a portion of those facilities. Prices for loops were determined based on only a portion of Qwest's facilities being actually used to provide service to customers. That portion of facilities being used generates enough revenue to cover the costs of all of the facilities. If Qwest is out of facilities, it is over-recovering costs. Through its no-build policy, requiring CLECs to pay for construction in this situation, Qwest is double recovering these costs.

In addition, the rates need to be reviewed to ensure that they do not discriminate against CLECs in favor of Qwest's retail customers. The Minnesota rules provide:

[9] *See* Order Resolving Cost Methodology, Requiring Compliance Filing, and Initiating Deaveraging Proceeding, (Nov. 17, 1998), at p. 3, ¶13 (adopting Report of the Administrative Law Judge, "ALJ," at p. 33, ¶123), *In re. Generic Investigation of U S West's Cost of Providing Interconnection and UNEs*, Docket No. P-442, 5231, 3167, 466, 421/C1-96-1540.

[10] *See id.*

7810.2800 DELAY IN INITIAL SERVICE OR UPGRADE.

During such periods of time as telephone utilities may not be able to supply initial telephone service to an applicant or upgrade existing customers within 30 days after the day applicant desires service, the telephone utility shall keep a record by exchanges showing the name and address of each applicant for service, the date of application, date service desired, the class and grade of service applied for, together with the reason for the inability to provide the new service or higher grade to the applicant. When, because of shortage of facilities, a utility is unable to supply main telephone service on dates requested by applicants, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the commission may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made. Ninety percent of the utility's commitments to customers as to the date of installation of regular service orders shall be met excepting customer-caused delays and acts of God.

In addition, Qwest's Minnesota Exchange and Network Services Tariff, Section 4.1(B), para. 16, provides:

> 16. Customers in the Company's territory, as well as customers in unassigned territory, receive a ***free*** 700 foot allowance in cable installation starting at the nearest Network Facility. Network Facility is an existing facility which may serve more than one customer and is either cable, C-wire or E-wire. (Emphasis added.)

Qwest's no-build policy is discriminatory and its rates are not cost-based.

Qwest's position is that, when Qwest refuses to build, CLECs may pay for construction of the facilities using a Special Request Process. Qwest has only recently provided that policy in writing, in response to requests by Eschelon. Under the policy, a CLEC pays to build ***Qwest*** facilities. Qwest does not recognize any CLEC ownership interest in the facilities, even though the CLEC paid for construction of the facility. Eschelon has pointed out to Qwest that a CLEC may pay for the full amount of a facility, and the customer may decide to switch carriers the next day. If the customer becomes a Qwest customer, Qwest serves the customer on a facility paid for by Eschelon. Eschelon asked Qwest whether, to protect against this discriminatory and uneconomic result, Qwest would agree to reimburse a CLEC in such situations, if the switch is made within a certain period of time. Qwest responded that Qwest will not reimburse the CLEC in any case. This policy is not cost-based, and it places CLECs at a disadvantage.

Line Sharing

Eschelon does not, at this time, order line sharing.

Other

For issues relating to rates, flow through, and combinations of UNEs that include loops (such as UNE-E, UNE-P, and EEL), *see* 2032 and 2034.

5001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 5 obligation to provide local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other service at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of this local transport:

Eschelon has no responsive information at this time.

6001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 6 obligation to provide local switching unbundled transport, local loop transmission, or other services at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of this local transport:

Eschelon has no responsive information at this time. Eschelon buys switching as part of a combinations (such as UNE-E, UNE-P, EEL), or it uses its own switching (*e.g.*, with loops). Eschelon does not own cable or fiber facilities to the customer premises.

11001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 11 obligation to provide number portability in full compliance with all relevant regulations at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of number portability:

A problem occurs in association with some cutovers when, after the cutover, the customer is unable to receive calls from Qwest customers served in the same switch. This is a significant problem when serving small, local businesses whose calls mostly come from the same area -- such as pizza places and flower shops. Customers complain after a loop cutover because they cannot receive calls from their primary customers (sometimes, for a long period of time). They are particularly concerned when a "Not In Service" recording is received by callers trying to reach the customer. This is a serious, service affecting issue when it occurs.

Eschelon has attributed this issue to Qwest not pulling the switch translations at the appropriate time, because doing so generally corrects the problem. *See*, *e.g*., CR PC073101-6 (attached). Therefore, Eschelon attempted to determine whether the performance measurements were capturing this issue to determine whether it is an isolated issue, as claimed by Qwest. Eschelon believed it was not being captured and submitted and escalating a CR addressing the issue relating to PID measure OP-13A. *See* CR PC102301-2 Escalation (attached). The performance measure OP-13A is intended to measure the percentage of LSRs for coordinated Hot Cuts of unbundled loops that are completed on time, focusing on cuts completed within one hour of the committed order due time. Qwest has indicated, however, that the problem should not occur if the mechanized triggers are set properly. The OP-8 PID measures Qwest's performance in setting up the triggers before conversion. Perhaps the relationship between the measures needs to be examined so that, after a conversion if this problem arises, the question is asked as to whether the problem cutover related and, if so, whether the triggers were set and the problem was reflected in the correct measure.

Eschelon also has encountered other porting problems during conversions. Through CMP, Eschelon asked Qwest to form a "quality team" to address the problems. (*See* CR PC091901-1; attached – 4001.) The quality team identified a routing error at Qwest. If Qwest continues to route orders as identified by the quality team, these problems should be significantly reduced.

Sometimes the ASMS database (Qwest's number portability system) experiences outages. The largest outages have occurred on March 19, 2001, April 30, 2001, and May 23, 2001. No notice was provided to Eschelon of these outages. Also, it appears that the

Qwest testers are not notified, because they continue to perform cutovers. The cutovers cannot be completed satisfactorily when ASMS is down.

Lynne Powers (Eschelon's Executive Vice President of Customer Operations) and Bonnie Johnson (Eschelon Senior Manager, Customer Operations) deal with Qwest regarding these issues.

13001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 13 obligation to provide reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of reciprocal compensation:

Qwest and Eschelon have entered into a bill-and-keep agreement (attached).

Usage Termination to Wireless: Qwest is billing Eschelon for usage terminating to a wireless customer, even though Qwest and Eschelon have entered into a Bill and Keep for Reciprocal Compensation Amendment. *See* ICA Amendment (July 31, 2001) (attached). If Qwest is also charging the wireless carrier, Qwest may be double recovering. Qwest places these charges on a separate, summary manual invoice (paper bill), and bill validation is difficult. It appears that Qwest may be claiming this is transit traffic, but then the charges would appear on the transit bills. The charges are billed separately one month. The next month, there is a debit or adjustment for a lump sum, with no explanation of the charges, on the transit bill. This is confusing and difficult to track/verify. *See* 2032(l).

14001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 14 obligation to provide resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of resale:

Loss and Completion Reports

Qwest retail has a competitive advantage over wholesale customers, because retail and not wholesale receives accurate customer loss information. The loss and completion reports provided by Qwest have several problems and inaccuracies. (*See* enclosed list of issues from CMP.) A primary problem is that the reports do not provide CLECs with the intended ability to identify which customers have left the CLEC for another carrier. This is a significant issue that adversely affects the CLEC's reputation and the end-user customer. If Eschelon cannot determine that a customer has left (a "loss"), Eschelon continues to bill the customer. Eschelon cannot send a closing bill and settle the account. Doing so later significantly decreases the likelihood of full collection. Eschelon and other CLECs are made to look bad with the customer, who does not understand why a carrier would not know that the customer has left.

Competitor's Confidential Information

Both Eschelon and Allegiance have experienced situations in which they have attempted to pull one full CSR and instead have received a large volume of information about a competitor's customer. Instead of receiving a partial CSR with the end user's information, a CLEC receives the full Billing Telephone Number records for an entire Centrex/Centron account. When Qwest sent the Pseudo-CLEC the monthly Directory Listing Reports associated with another CLEC, KPMG Consulting observed that this could give one CLEC a competitive advantage. (Observation 2068.) Similarly, Eschelon does not want Qwest to provide its competitively sensitive information to another carrier.

Qwest Retail Provisions DSL When CLEC Can Not

Two examples are attached of situations in which Qwest's DSL prequalification tool, for resold DSL, indicates that the loop does not qualify for MegaBit Service. Eschelon pre-qualified the business customers using their main telephone numbers. In both cases, the customers went to Qwest, and both now have DSL service. In both cases, Qwest assigned a different telephone number. In the second example (in Plymouth, Minnesota), Qwest said that the reason Eschelon's lines did not qualify for DSL was that the telephone numbers assigned to Eschelon were "back hauled" through the Wayzata Central Office and not the Plymouth Central Office. Eschelon has been unable to find any documentation of this or any method for determining this in advance.

Qwest will not allow Eschelon to order line conditioning with resold DSL. It appears, however, that Qwest has conditioned these lines for itself.

IDSL

Qwest represents in its documentation that IDSL is available for resale. After significant efforts to attempt to launch this resold product, however, Eschelon was forced to disband the effort. Qwest did not have the processes in place to resell the product.

Private Line

Qwest has denied providing the wholesale discount on these resold private lines in accordance with Eschelon's interconnection agreement in cases in which Eschelon orders private lines from Qwest's Minnesota Private Line Transport tariff. *See* 2032(l). Qwest has also delayed converting resold private lines to EELs. *See* 2034.

Maintenance and Repair issues: *See* 2032(l) and 4001.

Flow Through: *See* 2034.

Bill Inaccuracy: See 2034 (UNE-E).

Failure to Tag at Demarcation: *See* 4001.

Bonnie Johnson (Eschelon Senior Manager, Customer Operations) deals with Qwest on resale issues.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF MINNESOTA

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayer	Commissioner
Phyllis Reha	Commissioner

In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist items 1, 2, 4, 5, 6, 11, 13 and 14	PUC Docket No. P-421/CI-01-1371 OAH Docket No. 12-2500-14486-2

ESCHELON'S SUPPLEMENTAL RESPONSES TO DEPARTMENT OF COMMERCE'S (DOC'S) INFORMATION REQUESTS

Date of Response: May 1, 2002

Eschelon Telecom, Inc. ("Eschelon"), submits the following supplemental objections and responses to the Minnesota DOC's Information Requests:

GENERAL OBJECTIONS TO ALL INFORMATION REQUESTS

1. Eschelon objects to the Requests to the extent they are vague, over-broad and/or unduly burdensome.

2. Eschelon objects to the Requests to the extent they seek information subject to the attorney-client privilege, work product doctrine, or any other privilege recognized by the State of Minnesota and information that is trade secret, confidential, sensitive, competitive in nature or proprietary.

3. Eschelon objects to the Requests to the extent that they seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

4. Eschelon objects to the Requests to the extent that they seek a legal conclusion.

5. Eschelon objects to the Requests on the grounds that Eschelon is not a party to Minnesota Docket Number P421/CI-01-1371.

RESPONSES

Subject to, and without waiving, the foregoing objections, Eschelon provides the following Responses.

1008. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 1 obligation to provide Interconnection (including collocation) at any technically feasible point, at desired volumes *and at an acceptable level of quality* that is at least equal in quality to that provided to itself and that provides rates, terms and conditions that are just, reasonable and nondiscriminatory. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon provides the following supplemental information relating to Qwest's provision of interconnection and collocation:

Adjacent Off-Site Collocation: Qwest continues to take the position that it will not provide Eschelon with adjacent off-site collocation so that Eschelon can collocate on property next to Qwest and thereby not be required to use an entrance facility to gain access to Qwest's premises. Qwest takes this position, even though Eschelon has provided copies of the SWBT tariff, which provides an offering of adjacent off-site collocation, to Qwest. *See* enclosed documents.

ICDF Collocation: Qwest continues to refuse Eschelon's request that Qwest agree to allow Eschelon to interconnect at the ICDF when Eschelon uses ICDF collocation. *See* enclosed documents. Qwest allows use of ICDF collocation for unbundled elements but not interconnection.

Standards/Regeneration: Eschelon had to submit a CR because Qwest would not commit to engineering a complete DS3 Circuit to meet the ANSI standard. Eschelon submitted CR #PC120301-4 ("Implement a process to insure Qwest adheres to ANSI Standard T1.102 and ANSI T1.104 for setting signal and loss level standards for DS3 cable length limitations"), which provides:

> Qwest currently states that it will meet ANSI standards without defining how it will meet the standards. Qwest should commit to engineering a complete DS3 Circuit when the request for a CLEC to CLEC cross-connect is made through the Qwest ICDF. Eschelon asks that Qwest adhere to ANSI Standard T1.102 and ANSI T1.104 with the additional lineal footage, ICDF connections, connectors and DSX interfaces taken into consideration. Without such a standard, CLECs are not assured a clear DS3 signal. If it is discovered that a signal level of no less than -4.7 dBm is present on a single unbalanced coaxial line (20 Ga/26 Ga), Qwest will notify the CLEC that amplification is required and will appropriately amplify the signal to meet ANSI Standards (as identified in ANSI Standard T1.102 and ANSI T1.104). Additionally, Eschelon requires that the two-unbalanced coaxial cable paths are within ± .5 dBm of one another. Otherwise, corrective action is necessary to meet this requirement. Example #1 (Qwest needs to engineer the entire path (CLEC to CLEC) when the cross-connect is made through the Qwest

ICDF). A CLEC to CLEC cross-connect was made with a third party in a Central Office. When the entire lineal footage of the DS3 Circuit was taken into consideration, the DS3 signal was not within ANSI loss level standards. Qwest contends that it will engineer the DS3 cable/signal from the Qwest ICDF to each separate Co-Provider but that it is not responsible for the complete circuit, although all elements involved. (i.e. BNC connectors, ICDF Cross-connect points, and DSX interfaces) contribute significantly to overall signal loss. Since Qwest provisions all three segments of the circuit, Qwest must provision the complete circuit in such a way that meets the ANSI standard.

The CR and its history can be found at:
http://www.qwest.com/wholesale/downloads/2002/cmp/CLEC_Change_Request-ProductProcess_Interactive_Reports.PDF?rn=32803

In response to Eschelon's CR, Qwest has finally agreed to accept a call and test the circuit once all the pieces are in. Eschelon will not have an opportunity to test this until it needs this in a collocation again. Although Qwest's change in position to perform a test should help with identifying problems, it will not solve the regeneration issue. A recent inquiry from Allegiance indicates that Allegiance has experienced the same or a similar problem as well, after Qwest provided its response to Eschelon's CR.

See enclosed documents.

Timely Assignment of Collocation Space: In Arizona (Scottsdale Thunderbird Central Office), Eschelon observed that collocation space adjacent to Eschelon's own space was open and had not been in use for some months. Eschelon had previously requested additional collocation space. Because Eschelon was first in time in line with its request for additional space, Qwest offered Eschelon a different space that was farther from Eschelon's existing collocation. The space offered to Eschelon earlier was not suitable for Eschelon's use, and Eschelon declined that space. Eschelon indicated at the time, however, that it continued to request collocation space when suitable space became available. Eschelon did not receive any notice from Qwest that the space adjacent to its own space had become available. Eschelon made its own inquiries, confirmed that the space was available, and asked Qwest to provide the space to Eschelon. Qwest responded that the space was tied up in a bankruptcy. Nonetheless, after Eschelon pressed the issue with Qwest, Qwest finally (on April 18, 2002) notified Eschelon that the space would be assigned to Eschelon. There is no indication that Eschelon would have received timely notice of the space's availability or received the space if Eschelon had not observed the space, acted on its own initiative without notice, and pursued the issue. Qwest should have a process in place for timely reassignment of reclaimed collocation space in such situations. Although this issue arose in Arizona, Qwest applies the same policies (or lack of policies) to collocation throughout its region. If Qwest is not more proactive and prompt when space becomes available, Qwest is able to delay competitors by simply doing nothing, as it did here until Eschelon pressed the issue.

Reduction in power: Qwest has used an alleged need for amendments to the interconnection agreements as a tool to delay competitors or attempt to extract an ability to charge unapproved rates from them. In a recent example, Qwest has taken the position that Eschelon needs to sign a contract amendment to simply terminate unwanted power to collocation space. Eschelon has identified nine collocations, including two in Minnesota (St. Paul Main and St. Paul Midway), for which Eschelon has asked Qwest to terminate power. Eschelon has pointed out to Qwest that Qwest merely needs to remove the charge from its database. No physical work is required, because Eschelon is not using the power. Qwest has caused delay – during which time Eschelon incurs this unnecessary expense – by trying to require an amendment to the interconnection agreement. No amendment is needed, however, in this situation. Eschelon is not asking Qwest to retroactively refund money paid for unused power; Eschelon is simply indicating that Eschelon is not ordering the power going forward. As this is a simple database change, it should not require either a contract amendment or a charge. *See* attached documents.

4001. Are you aware of any current Qwest practice or recent Qwest action that you believe constitutes a violation or potential violation of Qwest's Section 271(c)(2)(B) checklist item 4 obligation to provide local loop transmission from the central office to the customer's premises (including NID and line sharing) at desired volumes *and at an acceptable level of quality*. If so, please provide a detailed description of the Qwest practice(s) or action(s), any related documentation concerning the issue and/or your attempt to resolve it with Qwest (if any) and the name and number of a contact in your company who is familiar with the described issue(s).

Subject to, and without waiving, the foregoing objections, Eschelon states that it has raised with Qwest the following current or recent Qwest actions and practices relating to Qwest's provision of local loop transmission from the central office to the customer's premises:

Adherence to Processes, Training, and Information: Qwest denied Eschelon's request that Qwest essentially un-do Qwest's Spring 2001 reorganization in which Qwest replaced the previous "account team" members with "service managers" and "sales" representatives. Although CLEC representatives (including Bill Littler of Integra, in addition to Eschelon representatives) said, at CMP meetings, that under the current structure the "sales" representatives do not bring value to CLECs, Qwest has indicated that it will not re-assign the resources to service issues, where the resources are really needed. Qwest continues to claim that its reorganization offers an "advantage" to CLECs, even though Eschelon has clearly indicated that it is a disadvantage.

Recently, Eschelon was again reminded of the ineffectiveness of the "sales" role in an environment in which the vendor (Qwest) is a monopoly. Eschelon inquired about dark fiber, and Qwest's sales personnel responded. Eschelon's Executive Vice President of Operations and Engineering informed Qwest that the process Qwest described in its response is one of the most cumbersome pre-sale processes that he has come across.

See enclosed documents.